IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPLICATION NO.47 OF 2002

The Comissioner of Income-tax ..Applicant.

V/s.

M/s.Hukunchand Mills Ltd. ..Respondent.

Mr.Shiv Mutariya for the applicant.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 10TH JULY, 2006.

P.C.:

Heard the learned counsel for the applicant. The applicant has raised the following substantial questions of law:-

1. Whether on the facts and in the circumstances of the case and in law, the Tribunal was right in law in treating the income from house property as business income of the assessee ?

2. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in allowing the assessee’s claim for depreciation on the original cost as on 1.1.1949 as reduced by the depreciation for the subsequent years on the said cost ?

2. So far as the second question is concerned, the learned counsel appearing for the revenue submits that

the prayer of the revenue to refer the question has already been rejected by the Tribunal as such said question is not pressed.

3. So far as the first question is concerned, the Tribunal has relied on the earlier order which the learned counsel for revenue could not place on record in spite of adjournments. He also does not know as to whether or not the department has accepted the said order. At any rate, there is no material on record to show that the Revenue did not accept the order of the Tribunal for earlier assessment years. Under these circumstances, in view of the earlier order relied upon by the Tribunal, no substantial question of law arises for adjudication by this Court. Even otherwise, considering the tax impact, application does not deserve any consideration.

4. Application is, thus dismissed in limini with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)